

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION**

Shellae Backman, Shawn Oxentenکو, and Sheree Wesely, as co-trustees of the Cordell Oxentenکو Trust; Phyllis Oxentenکو; and Oxentenکو, Inc.,

Plaintiffs,

VS.

Home Depot U.S.A., Inc.; and HD
Development of Maryland, Inc.,

Defendants.

ORDER RE SETTLEMENT CONFERENCE

Case No. 1:08-cv-058

IT IS ORDERED:

A settlement conference will be held before the magistrate judge on September 4, 2008, at 9:00 a.m. at the U.S. Courthouse located in Bismarck, North Dakota (courtroom #2).

The conference shall be attended by all parties, together with trial counsel (if they are represented) for each party. An insured party need not attend unless the settlement decision will be made in part by the insured. When the settlement decision will be made in whole or in part by an insurer, the insurer shall send a representative. The persons attending shall be vested with the necessary settlement authority. Any relief from these requirements must be obtained in advance. Failure to produce the appropriate person(s) at the conference may result in an award of costs and attorney fees incurred by the other parties in connection with the conference and/or other sanctions against the noncomplying party and/or counsel.

Each party shall submit a confidential settlement statement to the Court no later than two days prior to the final settlement conference. The settlement statement shall not become a part of the file of the case, but shall be for the exclusive use of the Court in preparing for and conducting the settlement conference.

The settlement statement shall contain a specific recitation of the facts, a discussion of the strengths and weaknesses of the case, the parties' positions on settlement, including a present settlement proposal, and a report on settlement efforts to date. If not already part of the court file, copies of any critical agreements, business records, photographs or other documents or exhibits shall be attached to the settlement statement. The settlement statement should not be lengthy, but should contain enough information to be useful to the Court in analyzing the factual and legal issues in the case. The parties are directed to be candid in their statements.

The settlement statement shall not be filed with the clerk, but shall be faxed (701-530-2325), e-mailed (ndd_J-Miller@ndd.uscourts.gov) or mailed (P.O. Box 670, Bismarck, North Dakota 58502-0670) to the court. Copies of the settlement statement shall not be provided to the other parties in the case.

Counsel are directed to confer with their clients in advance of the conference to explore the parties' settlement positions, and the parties are encouraged to exchange settlement proposals prior to the conference. These steps will enable the conference to progress more expeditiously.

The scheduling conference set for July 23, 2008, is cancelled. The court may take up scheduling matters if necessary and as the circumstances dictate following the settlement conference on September 4, 2008.

Dated this 21st day of July, 2008.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge